The Indiana Department of Education (the "Department") and the State Board of Education (the "Board"), have conferred and it is the conclusion of both agencies that the piloting of items, which is done through the administration of Book II of the ISTEP+ program, is required under Indiana law.

Indiana Code 20-32-2-2.3 defines the "ISTEP program test" as "any statewide . . . assessment that a student is required to complete." Pursuant to IC 20-32-2-3, the requirement to complete the ISTEP program applies to *any* student who is enrolled in a public school, accredited nonpublic school, or another nonpublic school as defined by statute. Additionally, Indiana law requires public and accredited nonpublic schools to administer the ISTEP program test, as determined by the Board. IC 20-32-5-2. Finally, 511 IAC 5-2-3(a) requires the following to participate in the ISTEP program: nonpublic schools seeking accreditation, charter schools, schools operated by the state of Indiana, and school corporations.

On April 1, 2015, the Board, which authorizes the development and implementation of the ISTEP program test pursuant to Indiana Code 20-32-5-4, including the "establishment of criteria for content and format of the ISTEP program," resolved to require the piloting of items necessary for the administration of the ISTEP+ exam in the 2016-2017 school year. Per the decision of the Board, the Department was required to pilot items in "any future years in which additional items will be needed[.]" Accordingly, this spring's ISTEP+ includes the piloting of items needed for the ISTEP program in SY 2016-2017.

Indiana law does not limit the ISTEP program to only those test items that are determined to be operational items. The ISTEP program is just that—a program. As a program, it is inclusive of many item types and forms. Pilot items are inherently part of the ISTEP program and necessary in order to develop and establish future test items that will best assess students' academic progress and growth. Without the piloting of items, the administration of the 2016-2017 will be considerably longer as students will need to be tested on more items in order to have an item pool sufficiently large enough to create reliable results. Participation by chosen schools in the pilot is not only essential for the development of a robust and reliable ISTEP program test, but is required by law as it is a part of the ISTEP program test.